

PD-0787-18

DEMOND FRANKLIN

§

IN THE COURT

FILED

COURT OF CRIMINAL APPEALS

1/10/2019

DEANA WILLIAMSON, CLERK

VS.

§

OF CRIMINAL APPEALS

§

STATE OF TEXAS

§

OF TEXAS

MOTION TO EXTEND TIME TO FILE APPELLANT'S BRIEF

TO THE HONORABLE COURT OF APPEALS:

COMES NOW, appellant, DEMOND FRANKLIN, who, by and through the undersigned counsel of record, and pursuant to T.R.A.P. 10.5(b), respectfully moves this Court to extend the time for filing appellant's brief, and in support thereof would show this Honorable Court the following:

I. Procedural History.

On December 12, 2016, appellant was convicted in Cause No. 2015-CR-6149A, of a single count of capital murder wherein death was waived. On that same date the Hon. Melisa C. Skinner, 290th District Court, Bexar County, Texas, assessed punishment at life without parole and a zero dollar [\$0.00] fine. The Fourth Court of Appeals affirmed the trial court's judgment on June 27, 2018. This Court granted appellant's timely-amended petition for discretionary review on December 12, 2018.

II. Deadline for Filing Appellant's Brief.

Appellant's brief is due January 11, 2019. This motion is thus timely under TEX. R. APP. P. 10.5(b)(1).

III. Length of Extension Sought.

Appellant seeks an extension of thirty-one [31] days, until Monday, February 11, 2019, to file appellant's brief.

IV. Facts Relied on To Reasonably Explain the Need for An Extension.

The primary reason for delay in filing appellant's brief is counsel's concurrent briefing and other obligations in at least ten [10] other cases, namely: *Jakroi Banks v. State*, 04-18-00908-CR, [docketing statement filed: 12-05-18; proposed dismissal response filed: 12-11-18; & 48.4 compliance letter filed: 01-04-18]; *John Santos v. State*, 04-17-00707-CR, [48.4 compliance letter filed: 12-12-18]; *Marco Tulio v. State*, 04-17-00778-CR, [48.4 compliance letter filed: 12-12-18]; *Comfort Roberts v. State*, 04-18-00345-CR, [brief filed: 12-18-18]; *Gregory Paez v. State*, 04-18-00829-CR, [48.4 compliance letter filed: 12-18-18]; *Martin Morales v. State*, 04-18-00567-CR, [48.4 compliance letter filed: 12-20-18]; *Ryan Rodriguez*, 04-18-00093-CR, [48.4 compliance letter filed: 12-20-18]; *San Juan Garcia*, 04-17-00430-CR, [48.4 compliance letter filed: 12-20-18]; *Steven Sumlin v. State*, 04-18-00972-CR, [docketing statement filed: 01-03-19]; & *Benjamin Sims v. State*, 04-17-00655-CR, [48.4 compliance letter filed: 01-04-19].

In addition, per a Bexar County Public Defender's Office directive, the undersigned counsel attended a mandatory "Nuts and Bolts" continuing legal education seminar on November 30, 2018, which lasted that entire day. Counsel was also out of the office visiting family during sorely needed Christmas break—planned well in advance—from December 24, 2018 until January 3, 2019.

IV. Number of Previous Extensions Granted.

No prior extension to file appellant's brief has been granted.

IV. Prayer.

WHEREFORE, PREMISES CONSIDERED, appellant hereby respectfully requests an extension of thirty [31] days, until Monday, February 11, 2019, to file appellant's brief.

Respectfully submitted,

Dean A. Diachin

DEAN A. DIACHIN

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ATTORNEY FOR APPELLANT.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion to Extend Time to File Appellant's Brief has been electronically served on the Bexar County District Attorney's Office, Appellate Division, Paul Elizondo Tower, 101 W. Nueva St., Suite 710, San Antonio, Texas 78205, on January 10, 2019.

Dean A. Diachin

DEAN A. DIACHIN

Bexar County Assistant Public Defender.